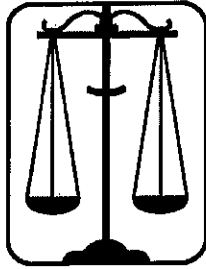


**Trease
&
Ward**

An Association
of Professional
Attorneys



Boston Building
#9 Exchange Place, Suite 300
Salt Lake City UT 84111
Phone Number: 801-596-9400
Facsimile: 801-596-9401

Jory L. Trease, Esq.
"The Bankruptcy Attorney"
Janci Lawes - attorney

Steven B. Ward, Esq.
Family Law Attorney
sward@swardlaw.com

South Valley Office
5955 So. Redwood Rd., # 100
Taylorsville UT 84123
Phone: 801-268-4713

The Honorable Judge Glen E. Clark
The Honorable Judge Judith A. Boulden
The Honorable Judge William T. Thurman
350 South Main
Salt Lake City, UT 84101

February 24, 2006

Re: Comment/En Banc Hearing on Attorneys Fees
Misc. Case No.: 06-50001

Dear Judges,

Having participated in the process of presenting the proposal to the Court regarding the issue of Attorneys fees in Chapter 13 cases subsequent to the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), it should be noted that I wholeheartedly support the content of the proposition. Over the past four (4) months in which the requirements of the BAPCPA have been in effect, I have recognized a significant detrimental economic impact upon my legal practice. The fact that there has been a mass exodus of Attorneys from the practice of Bankruptcy law in the District of Utah, primarily those representing Debtors, is clearly indicative of the heightened amount of liability, uncertainty, and increased labor that is required to comply with the provisions of the new Code.

There is no simpler way of identifying the grave nature of the economic status of the Debtor's Bar than to indicate it is most likely that a significant portion of the legal practitioners will be forced out of the practice of Bankruptcy law if the issue of Attorneys fees permitted in normal Chapter 13 cases are not revisited to take into account the increased amount of overhead, and other general economic factors (*i.e.*; the basic cost-of-living expenses), that have occurred over the past five (5) years.

It should also be noted that although I fully support the proposition in relation to the "presumptive no look fee" for the basic Chapter 13 case, I also believe that addressing such fees

separately from the issue of additional services that are associated with post-confirmation work on behalf of certain Debtors in Bankruptcy would only resolve a portion of the issue before the Court. It has become almost customary, partially as a convenience to the Court, that Attorneys have elected not to seek compensation for such post-confirmation legal services. However, based upon the fact of significantly decreased filings, the substantial increases in the cost of running a legal office, and the complexities of the new Code, I personally do not believe I will be financially capable of continuing to complete such services without seeking reimbursement for the time and expenses expended on behalf of Debtors that have post-confirmation issues arise. Obviously, it is inequitable for a Debtor that consistently and fully performs pursuant to the Confirmation Order to be forced to subsidize those Debtors that fail to perform. Therefore, I suggest that the "presumptive no look fee" should only cover the expenses associated in the confirmation process (including the review of Proofs of Claim after the bar date expires). Thereafter, I believe that each individual Debtor should be held personally responsible for the actual expenses that are associated with his/her failure to comply with the terms of the Confirmation Order entered in their respective case, or their particular life circumstances that cause additional services to become necessary during the pendency of their Chapter 13 case.

To facilitate holding the individual Debtors responsible for their own actions, and at the same time minimize the expenditure of time for the Court, Trustee, and Attorneys, in completing more administrative type tasks, I believe it would be proper for the Court to adopt a limited menu driven *ex parte* process to address the post-confirmation issues that arise in a Chapter 13 proceeding. I further believe that it is proper for the Court to consider this additional element of the Attorneys fee issue simultaneously with the Court's *en banc* hearing currently scheduled for March 3, 2006.

In regards to a potential menu driven post-confirmation process, I would suggest the possibility of adopting a "check-the-box" notice style pleading format that has been used in the State of California for decades. To request additional post-confirmation fees, an Attorney would be required to file the form pleading and upload an Order granting the fees on an *ex parte* basis. Since all of the fees that would be included in this checklist pleading would be well below the \$1,000 limit set forth within Bankruptcy Rule 2002(a)(6); the Debtor(s), Chapter 13 Trustee, and the U.S. Trustee would be the only parties that would be required to be notified of the request for fees.

The post-confirmation services that would be anticipated to be included within the aforementioned process should include the following (subject to further delineation by the

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Court):

Standard Fee

Action/Services

\$ 100.00	Request for Administrative Abatement
\$ 250.00	Annual Review or Status Conference
\$ 400.00	General Law and Motion matter requiring a hearing to be scheduled (<i>e.g.</i> ; Motion to Abate, Modification of Chapter 13 Plan, Objection to Trustee's Motion to Dismiss, <i>etc.</i>)
\$ 500.00	Defending Relief from Stay action, including workout arrangements (would include the preparation of amended budget and appropriate affidavit) [It is also to be noted that such fees are significantly less than the fees that are typically charged by the Creditor's Counsel, although Debtor's Counsel is expected to expend double the time in representing his client than the Creditor's Attorney does in such motions.]
\$ 600.00	Motions for Financial Transactions (purchase/sale of home, vehicle, <i>etc.</i>):
\$1,000.00	Imposition/Extension of the Automatic Stay
Unknown	Trustee Audits: because this provision of the BAPCPA has yet to be implemented, it is unknown the extent of legal services that will be involved in the process. Therefore, this issue should be left to further determination by the Court based upon evidence that will be ascertained in the future.

Fees for all other uncommon law and motion matters would be addressed on a fee application basis. (*e.g.*; sanction motions, *etc.*)

Thank you in advance for giving us as Debtor's Counsel the opportunity to express our sentiments regarding the issue of legal fees. I appreciate the fact that the Court recognizes that to many of us, this issue truly represents our livelihood. I remain hopeful that the issue can be adequately addressed in such a fashion that will enable me to continue to practice in an area of the legal field that I find challenging, interesting, and allows me to assist a sector of society that is absolutely in need of legal representation to protect their individual rights and liberties.

Respectfully,
TREASE & WARD

Jory L. Trease
Attorney at Law